REMARKS

The applicants have considered the Office action dated March 4, 2009, and the references it cites. By way of this response, claims 1, 24, 46, 50-71, 73 and 98 have been amended. The amendments are fully supported by the originally-filed application. No new matter has been added. In view of the foregoing amendments and the following remarks, it is respectfully submitted that the pending claims are in condition for allowance and favorable reconsideration is respectfully requested.

Subject Matter Rejections

The Office action rejected pending claims 50-71 as being directed to non-statutory subject matter under 35 U.S.C. § 101. Claims 50-71, as currently amended, recite a tangible machine accessible medium having machine-readable instructions stored thereon that, when executed by a machine, cause the machine to perform the recited operations. Support for these amendments can be found in at least paragraph [0028] of the originally-filed specification. For example, paragraph [0028] describes a transcoder 22 to transcode media content and metadata, and states that "various components included in the transcoder 22 are controlled by the processor 36 which executes a set of software instructions stored in the memory 38 and each transcoder component may be implemented using software" (emphasis added). Furthermore, paragraph [0028] states that "one or more of the components, such as the encode manager 42, may be implemented as software routines stored in the memory 38 and executed by the processor 36" (emphasis added). Thus, paragraph [0028] clearly supports the recited tangible machine accessible medium (e.g., such as the memory 38) having machine-readable

instructions stored thereon (e.g., such as the set of software instructions and/or software routines), and that are to be executed by a machine (e.g., such as the processor 36).

In contrast to an intangible machine accessible medium, such as a signal, it is well-settled that a tangible machine accessible medium having machine-readable instructions stored thereon is statutory subject matter (see e.g. M.P.E.P. § 2106.01(I)). Accordingly, because claims 50-71 recite statutory subject matter and are supported by the originally-filed specification, withdrawal of the rejections of claims 50-71 under 35 U.S.C. § 101 is respectfully requested.

Art Rejections

The Office action rejected independent claim 1 as being unpatentable over *Reynolds* (U.S. 2002/0138852) in view of *Neuhauser* (U.S. 2004/0064319) under 35 U.S.C. § 103(a). The applicants respectfully traverse this rejection.

Independent claim 1, as currently amended, recites a method for transcoding a media signal conveyed via a home network comprising determining via the home network a capability of a media metering device to sense media content consumption associated with a second media consumption device communicatively coupled to the home network, wherein the media metering device is to collect audience measurement data associated with the second media consumption device, determining a second media format based on the determined capability of the media metering device to sense media content consumption, and converting extracted metadata from a first media format associated with a first media consumption device communicatively coupled to the home network to the second media format associated with the media metering device to form converted media information.

Amended independent claim 1 is patentable over the references relied upon in the Office action because no combination of these references teaches or fairly suggests determining via a home network a capability of a media metering device to sense media content consumption associated with a second media consumption device communicatively coupled to the home network. Furthermore, no combination of references relied upon in the Office action teaches or fairly suggests determining a second media format based on such a determined capability of the media metering device to sense media content consumption, or converting extracted metadata from a first media format associated with a first media consumption device communicatively coupled to the home network to the second media format associated with the media metering device to form converted media information.

Taking each cited reference in turn, the Office action expressly indicated that *Reynolds* "fails to teach a metering device." (See the Office action, p. 4, third paragraph.) Because *Reynolds* fails to teach any metering device, it certainly follows that *Reynolds* cannot teach or suggest determining any capabilities of a metering device, much less determining via a home network a capability of a media metering device to sense media content consumption associated with a second media consumption device communicatively coupled to the home network, as recited in amended claim 1. Moreover, although *Reynolds* describes a receiver that has upstream (reverse path) communication capability and can accept user inputs, *Reynolds* also describes that the upstream capability of its receiver is to enable a user to select "on-demand programming and data delivery" and that the receiver is to accept user inputs to control a menu display." (See e.g. *Reynolds*, ¶¶ [0055] and [0058].) Nowhere does *Reynolds* describe or

even suggest that its receiver has any capability to sense media content consumption or collect audience measurement data as recited in claim 1 and described in the instant specification.

Neuhauser fails to overcome the deficiencies of *Reynolds* relative to claim 1. For example, although *Neuhauser* describes a portable metering device to gather audience measurement data, *Neuhauser* also fails to teach or suggest any operation that involves determining a sensing capability of its portable metering device. *Levy* (U.S. 2001/0044899), which is cited in the Office action, also fails to overcome the deficiencies of *Reynolds* and *Neuhauser* relative to amended claim 1. For example, although *Levy* describes transmarking of a watermarked media signal, *Levy's* transmarking operations do not involve determining a capability of a media metering device to sense media content consumption, as recited in amended claim 1.

Accordingly, amended claim 1 is nonobvious over the references relied upon by the Office action because no combination of these references teaches or fairly suggests determining a capability of a media metering device to sense media content consumption associated with a second media consumption device, much less determining such a capability via a home network or using such a determined capability to determine a second media format or to convert extracted metadata from a first media format associated with a first media consumption device to the second media format associated. For at least the foregoing reasons, withdrawal of the rejection of claim 1 under 35 U.S.C. § 103(a) is respectfully requested. Furthermore, it is respectfully submitted that pending claim 1 and the claims depending therefrom are in condition for allowance and favorable reconsideration is respectfully requested.

Amended independent claims 24, 50, 73 and 98 are also believed to be patentable over the references relied upon by the Office action for at least the reasons set forth above in connection with claim 1. Withdrawal of the rejections of claims 24, 50, 73 and 98 under 35 U.S.C. § 103(a) is, therefore, respectfully requested. Furthermore, it is respectfully submitted that pending claims 24, 50, 73 and 98, as well as the claims depending therefrom, are in condition for allowance and favorable reconsideration is respectfully requested.

Further Remarks

In general, the Office action makes various statements regarding the pending claims and the cited references that are now moot in light of the above. Thus, the applicants will not address such statements at the present time. However, the applicants expressly reserve the right to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).

If the Examiner is of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is invited to contact the undersigned at the number identified below.

The Commissioner is hereby authorized to charge any deficiency or any additional fees which may be required during the pendency of this application under 37 CFR 1.16 or 1.17 to Deposit Account No. 50-2455.

Respectfully submitted,

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